IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7501 OF 2004

Ankush Ramchandra Kolekar .. Petitioner.
Vs.
Ganesh Shankar Kashid & Ors. .. Respondents.

Mr.S.S.Patwardhan for the petitioner.
Mr.A.A.Garge for respondent no.1.
Mr.Shivaji S.Misal for respondent no.21.

CORAM : D.B.BHOSALE, J.

DATED : 6TH OCTOBER, 2004

P.C.:

. Mr.Patwardhan, learned counsel for the petitioner, Mr.Garge, learned counsel for respondent no.1 and Mr.Misal, learned counsel for respondent no.21.

2. This petition is directed against the judgment and order dated 31.8.2004 rendered in Election Petition No.4 of 2003. The operative part of the order dated 31.8.2004 reads thus:

> "1. The Opponent No.21 is directed to produce the ballot papers of Ward No.14-C in the Court on 10.9.2004 at 11.00 for the purpose of recounting.

2. Superintendent, Civil Court, Sr.Dn., Sangli to recount the votes in the presence of the parties and their respective advocates in the Court hall and submit the report.

3. Inform the opponent no.21 accordingly".

3. This court by the order dated 8.9.2004 allowed the Superintendent, Civil Court, Senior Division, Sangli to recount the votes as per the order dated 31.8.2004 and directed to forward the result of recount to this court in a sealed cover before the returnable date. Accordingly, the result of recount was forwarded to this court which was opened in the presence of the learned counsel appearing for the parties. In the recount, the petitioner secured 1458 votes while contesting respondent no.1 secured 1451 votes. Considering the result of recount the learned counsel appearing for the parties jointly requested to remand the matter to the trial court for passing appropriate orders in the Election Petition No.4 of 2003. Mr.Patwardhan, learned counsel for the petitioner

submitted that in view of the result of recount the findings recorded by the learned Judge in the impugned order on issue no.1 be quashed and set aside. Keeping in view the result of recount and considering the overall facts and circumstances, in my opinion, the following order shall meet the ends of justice:

. The findings recorded on issue no.1 stand quashed and set aside. The trial court shall record findings on issue no.1 afresh and also on issue nos.5 and 6 as expeditiously as possible and preferrably within three months from the date of receipt of this order. Needless to say that the findings recorded on issue nos.2 to 4 are maintained. The petitioner to communicate this order to the trial court within two weeks from today.

. The petition, accordingly, stands disposed of.

(D.B.Bhosale, J.)